

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into on the dates provided below by and between LANCASTER COUNTY SCHOOL DISTRICT 001, a political subdivision, commonly known as Lincoln Public Schools (hereinafter referred to as "LPS") and the CITY OF LINCOLN, NEBRASKA, a municipal corporation, (hereinafter referred to as "City").

WHEREAS, the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801 *et seq.*, (the "Act"), of the State of Nebraska, provides that two or more public entities may enter into an agreement for shared or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act and other Nebraska laws, and no separate legal or administrative entity is created for any of the cooperative undertakings established under this Agreement; and

WHEREAS, the parties have purposes for cooperative action as provided herein; and

WHEREAS, the parties desire to enter into this interlocal cooperative agreement to accomplish those purposes.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by the parties hereto as follows:

1. The Elliott School Parking Facility Cooperative.

A. Purpose and Duration. The purpose of the Elliott Shared Parking Facility Cooperative is to create a cooperative undertaking between LPS and City recognizing that both parties have public facilities that will benefit from development of the joint parking facility on an ongoing basis. In this regard, LPS owns a tract of land generally located at the southwest corner of 25th and N Streets in Lincoln, Lancaster County, Nebraska also known as Elliott Elementary School (the "School Site"), and City currently owns a tract of land generally located to the west of the School Site and east of the southeast corner of the current 23rd Street and N Street in Lincoln, Lancaster County, Nebraska, more specifically described as Lot 3, Block 7 of Antelope Valley 2nd Addition and Outlot H of Antelope Valley 2nd Addition vacated 24th Street between M and N Streets (collectively the "City Site") all of which are shown on Exhibit "A", which is attached hereto and incorporated herein by this reference as though set forth in full. The City Site adjoins the Antelope Valley Trail. City and LPS desire to pursue a shared parking facility on the current City Site for use by both LPS and City so as to fulfill their responsibilities to the public at a lesser cost than if each acted independently. As such, a joint venture is hereby established between the parties to provide a shared parking facility which includes the "rain garden" storm water detention cell for use by both LPS and City on the City Site. Such shared parking facility is generally located and was designed and constructed along the lines of that shown on the construction plan drawing Exhibit "B" Figure 1, the Arial photo of the completed construction for such new parking facility as shown on Exhibit "B" Figure 2, and the snow removal and maintenance/cost share plan as shown on Exhibit "B" Figure 3, all of which are attached hereto and incorporated herein by this reference as though set forth in full (the "Shared Parking Facility").

As such, the parties agree as follows:

- (i) Conveyance and Recognition of Land Value. The parties agree that upon completion and approval of a conversion application by City, subject to provisions of Land and Water Conservation Fund Act of 1965, Public Law 88-578, Title 16, United States (LWCFA) as provided herein, City shall convey the City Site to LPS free and clear of all liens, encumbrances and restrictions by quitclaim deed. The sale price to be paid by LPS to City for the City Site is LPS's 83% of the recent appraised value of \$8.50 per square foot or a total of \$207,749 in cash or certified funds at closing. Closing shall take place at a time mutually agreed upon after City obtains LWCFA approval. In consideration of its contribution to construction of the Shared Parking Facility as hereinafter set forth, LPS shall be entitled to use the City Site and not pay any rent for its use until LWCFA approval and the closing date as provided herein. It is acknowledged that City has accounted for the value of its proportionate share for continued use of the Shared Parking Facility by a 17% reduction against the sale price of the Lot 3, Block 7 portion of the City Site and that the Outlot H portion of the City Site is being transferred to LPS as no cost because of the established long term use of the outlot area for an access drive and student drop-off area.

Title Insurance and Closing Costs. LPS shall obtain a title insurance commitment from Union Title Company insuring marketability of the City Site. Such title insurance shall be paid one-half (1/2) by LPS and one-half (1/2) by City. If any defects in the title are discovered, City shall have a reasonable time to correct said defects not to exceed sixty (60) days from the date of receipt of the commitment. LPS acknowledges that the existing LWCFA restrictions will not be considered a defect of title provided said restrictions are removed prior to closing through the conversion process. Closing shall be handled by Union Title Company and closing costs shall be paid one-half (1/2) by LPS and one-half (1/2) by City.

- (ii) Design, Construction, and Initial Cost Responsibilities. City was responsible for the design, oversight and actual construction of the Shared Parking Facility. As to the initial and subsequent cost allocations and responsibilities for the Shared Parking Facility, LPS agrees to pay for 83% of that portion of the cost of the Shared Parking Facility area that involves the parking lot and "rain garden" storm water detention cell installation only and City agrees to pay for 17% of that portion of the cost of the Shared Parking Facility area that involves the parking lot and "rain garden" storm water detention cell installation. The parties agree that the parking lot and "rain garden" storm water detention cell installation include the costs of curb and gutter, surface and driveways. The parties agree that all other project area or Shared Parking Facility costs shall be paid for by City whether or not there are contributions from others. The parties further agree that the total Cost of Construction was \$146,190.00 and that the \$100,000 (CDBG Grant) and \$4,700 (Lincoln Cares Contribution) should be credited first to the City. A Cost of Construction balance of \$79,847.70 is then credited to LPS. The 83% of the remaining construction cost or \$41,490.00 is owed by LPS to City.

LPS shall pay or reimburse City for its above stated share within thirty (30) days of the execution of this Agreement and receipt of a billing therefor by City.

- (iii) This Agreement shall be in full force and effect for a term of thirty (30) years from and after the execution of this Agreement by the parties and shall continue thereafter from year to year until terminated as provided herein. In addition to the conveyance, responsibilities and contributions set forth in paragraph 1A(i) and 1A(ii) of this Agreement, upon conveyance of the City Site to LPS, it is agreed that City's contributions to the parking lot construction and installation shall constitute its sole rent to use the Shared Parking Facility, and LPS shall charge no other rent to City for such use during the thirty (30) year term of this Agreement.
- (iv) Ongoing Maintenance, Repair and Cost Responsibility. The parties agree that the responsibility for ongoing and long term maintenance, repair or improvements of the Shared Parking Facility shall be determined by the Program Administrators and shall be based on a similar percentage formula as the initial and subsequent cost allocation percentages and responsibilities for the Shared Parking Facility areas as provided in Paragraph 1A(ii) of this Agreement. The Program Administrators shall plan at least one (1) year in advance for major maintenance projects, such as resurfacing of the parking lot, to allow for appropriate budgeting. As to certain specific responsibilities, the parties further agree that City and LPS shall be responsible, as provided herein, for an allocable percentage of the ongoing and long term maintenance, repair or improvements to the parking lot only. LPS shall be responsible for snow removal of the parking lot and sidewalk areas shown on **Exhibit "B" Figure 3.** LPS shall also be responsible for parking lot striping, and utility and maintenance costs associated with parking lot security lighting, if any. City does not intend to utilize the parking lot security lighting to illuminate the Shared Parking Facility beyond the times of normal LPS operations, but in the event this does occur, then any utility costs shall be the responsibility of City. City shall be responsible, as provided herein, for its allocable percentage of the ongoing and long term maintenance, repair or improvements to the parking lot only, for snow removal of bike path/trail and associated crosswalks, for maintenance of landscape plantings within the rain garden associated with the parking lot, and for the ongoing and long term maintenance, repair or improvements to all other Shared Parking Facility areas as shown on **Exhibit "B" Figure 3.**
- (v) Finalization of the sale and conveyance of the City Site to LPS will occur upon approval by the Nebraska Game and Parks Commission and the National Park Service of a conversion application by City subject to provisions of Land and Water Conservation Fund Act of 1965, Public Law 88-578, Title 16, United States. It is anticipated that this approval will likely be secured by the fourth quarter of 2012. In the interim, use and maintenance or repair of the Shared Parking Facility as provided for in Paragraph 1A(iv) will occur.

B. Program Administrators. Except as otherwise provided herein, the cooperative undertaking for the Shared Parking Facility shall be administered by a program administrator from LPS and a program administrator from City (the "Program Administrator(s)"). City hereby designates the Director of the Parks and Recreation Department of the City of Lincoln as its Program Administrator of the Elliott Shared Parking Facility Cooperative. LPS hereby designates the Director of Facilities and Maintenance as its Program Administrator of the Elliott Shared Parking Facility Cooperative. The Program Administrators shall be directly responsible for making decisions and for administering and managing this cooperative and the Shared Parking Facility, to include but not limited to its ongoing day to day use, maintenance, repair and upkeep, the utilization of specific parking stalls and other administrative items and details of this cooperative undertaking. The Program Administrators may mutually administer of the Elliott Shared Parking Facility Cooperative and agree on the rules, regulations, practices, procedures and parameters of utilization and programming as provided herein. A Program Administrator may be changed from time to time by any party appointing a successor Program Administrator upon no less than seven (7) days advance written notice to the other party.

2. Mutual Indemnification. The parties agree to mutually indemnify, defend and hold harmless each other, including any officers, representatives, employees, officials, or agents, for any claims, losses, or damages arising out of the course of this Agreement. Neither party waives any governmental immunity by entering into this Agreement and retains all defenses and immunities as provided by law. This provision survives any termination of the Agreement.

3. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, devisees, personal representatives, successors and assigns.

4. Amendments. This Agreement may only be amended or modified in writing signed by all parties to this Agreement.

5. Further Assurances. Each party will use its best and reasonable efforts to successfully carry out and complete each task, covenant, and obligation as stated herein. Each of the parties shall cooperate in good faith with the other and shall do any and all acts and execute, acknowledge, and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

6. Execution in Counterparts. This Agreement may be executed on two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

7. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

8. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against any party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules and interpretation of contracts generally.

9. Relationship of Parties. Neither the method of computation of funding nor any other provisions contained in this Agreement nor any acts of any party shall be deemed or

construed by the City, or by any third person to create the relationship of partnership or of shared venture or of any association between the parties, other than contractual relationships stated in this Agreement.

10. Assignment. In the case of the assignment of the obligations under this Agreement by any of the parties hereto, prompt written notice shall be given to the other party, who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other party to this Agreement.

IN WITNESS WHEREOF, each of the parties hereto have executed and delivered this document by its duly authorized officer the date hereinafter shown.

LANCASTER COUNTY SCHOOL DISTRICT 001

BY:  8-14-12
Authorized Official Date

THE CITY OF LINCOLN, NEBRASKA

BY: _____
Authorized Official Date

Exhibit "A"
(Page 1 of 1)

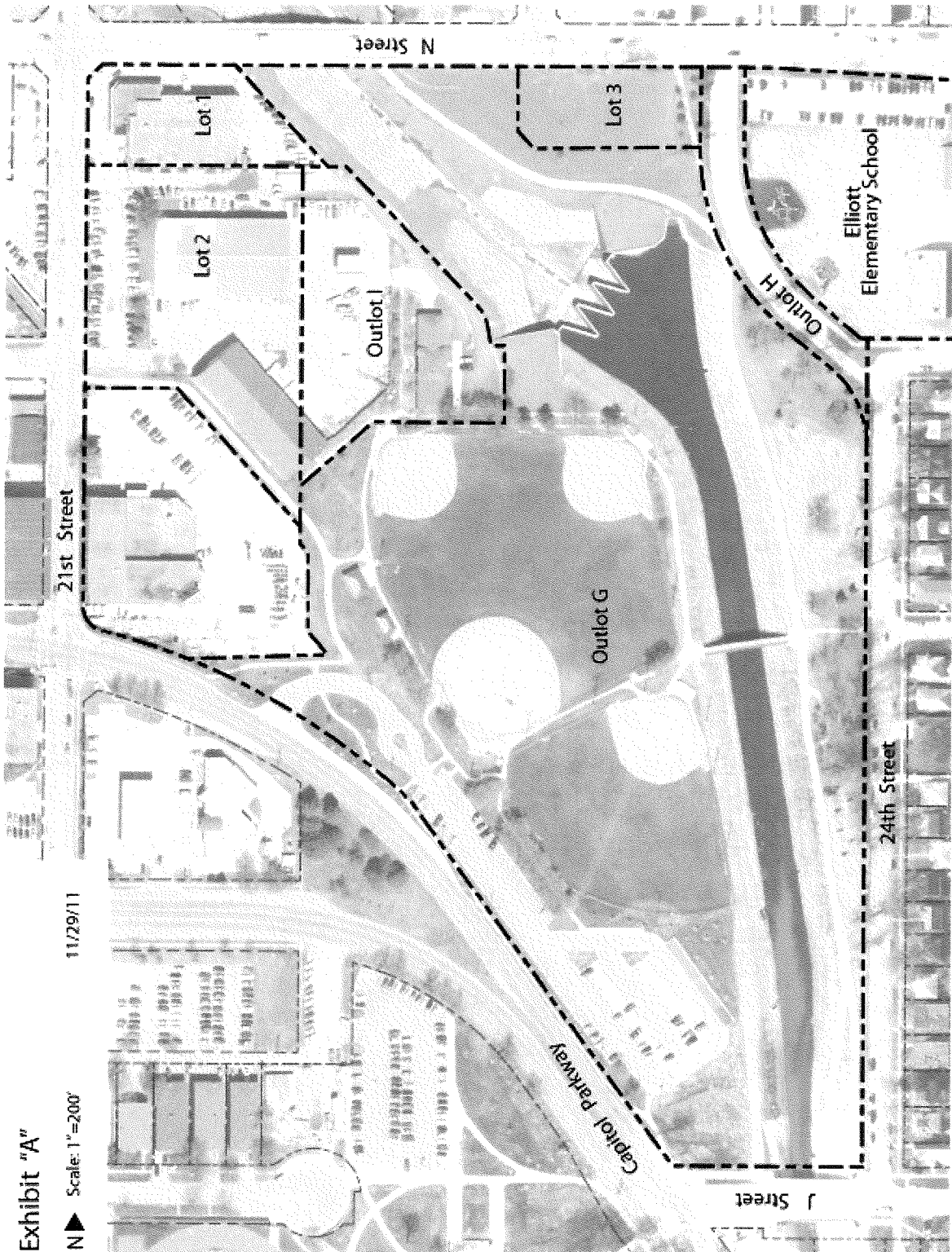


Figure No.1
(Construction Plan)

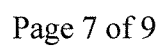
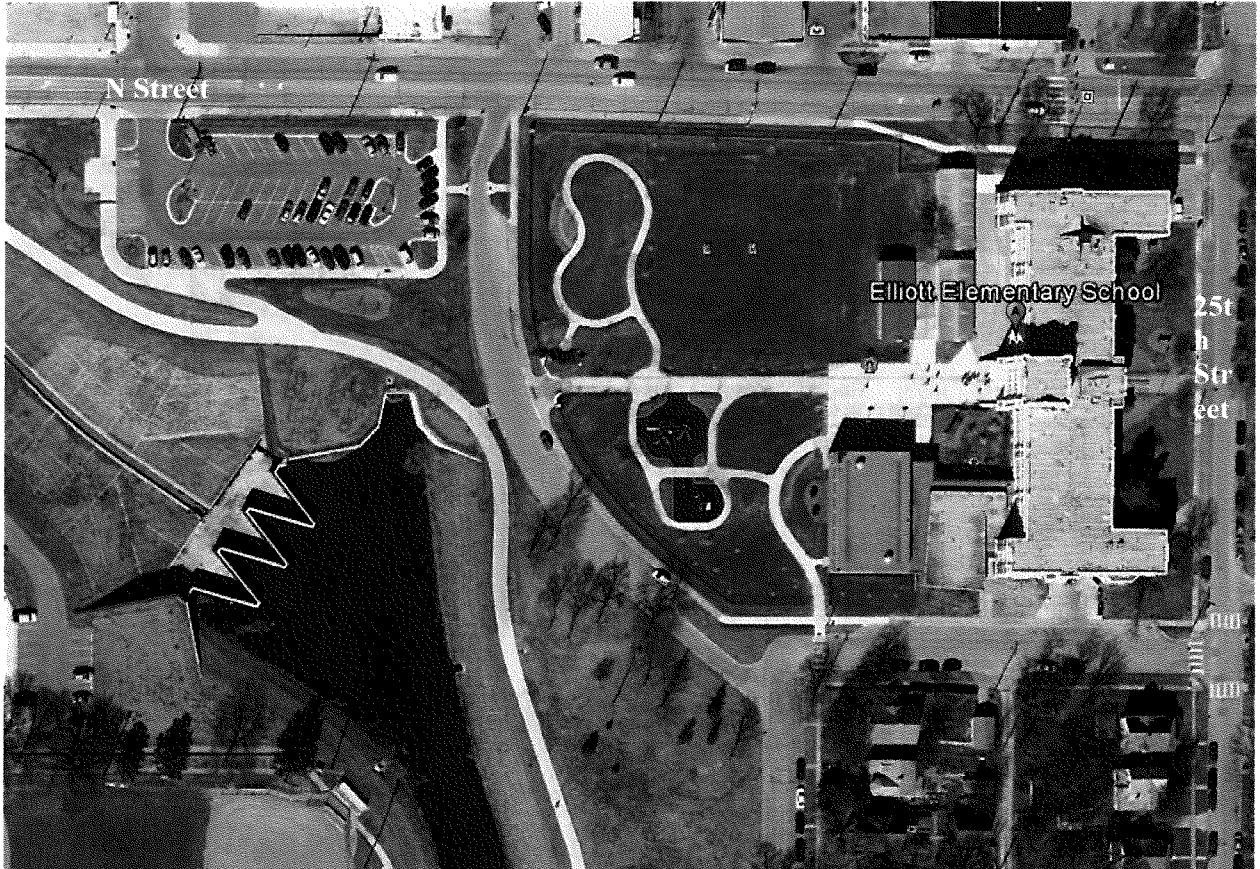


Exhibit "B"
(Page 2 of 3)

Figure No. 2
(Aerial of City Site and Completed Construction)



(Page 3 of 3)

Figure No. 3

(Snow Removal and Maintenance/Cost Share Plan)

